

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

SHAWN THOMAS MOORE,)	
)	Plaintiff,
)	
vs.)	Civil Action No. 14-870
)	Judge David S. Cercone/
BRIAN COVERT <i>Warden</i> ; JASON)	Magistrate Judge Maureen P. Kelly
HILTON <i>Asst. Warden</i> ; BRIAN LUFFEY)	
<i>PrimeCare Administrator</i> ; DR. ROSSINO)	
<i>PrimeCare Doctor</i> ; PRIMECARE)	
MEDICAL, INC.,)	ECF Nos. 6, 7 & 9
)	
Defendants.)	

MEMORANDUM ORDER

Shawn Thomas Moore (“Plaintiff”) is a pre-trial detainee at the Lawrence County Jail. He originally filed this civil rights action in the Court of Common Pleas of Lawrence County. Two of the Defendants (the “Removing Defendants”) filed a Notice of Removal and removed the case to this Court. Since the case has been removed to this Court, the Removing Defendants have filed a Motion to Dismiss, ECF No. 2 and a Brief in Support, ECF No. 3.

Plaintiff has also filed three motions. This order addresses those three pending motions.

First, Plaintiff filed a Motion for Leave to Proceed In Forma Pauperis (“IFP”). ECF No. 6. Given that the Removing Defendants have already paid the filing fee, Plaintiff’s Motion for leave to proceed IFP is DENIED as moot. Ping Lin v. Holder, 387 F. App’x 93, 96 (2d Cir. 2010) (“The pending motion to proceed *in forma pauperis* is DENIED as moot because the filing fee has already been paid.”). Nor has Plaintiff identified any permissible cost associated with

this proceeding for which he needs partial IFP status. Walker v. People Exp. Airlines, Inc., 886 F.2d 598, 601 (3d Cir. 1989).¹

Second, Plaintiff also filed a Motion for Leave to Amend and Supplement the Complaint. ECF No. 7. In this Motion, Plaintiff seeks to file an amended complaint but he only wants to file the amended complaint thirty days after the Defendants have provided him with his medical records. Id. at 2 (concluding unnumbered paragraph). Plaintiff claims he needs the medical records to “bolster his claims and combat statements made by Defendants.” Id., ¶ 4. Because Fed.R.Civ.P. 8 only requires only a short and plain statement of a plaintiff’s claims, and because Plaintiff presumably knows what treatment he did nor did not receive in order to state an Eighth Amendment deliberate indifference claim, Plaintiff’s Motion for Leave to Amend and Supplement the Complaint is DENIED as unnecessary, albeit without prejudice to filing a new motion for leave to amend with the proposed Amended Complaint attached, making any additional factual allegations Plaintiff deems necessary in order to cure the deficiencies noted in the Removing Defendants’ Motion to Dismiss.

Third, Plaintiff has filed a Motion for Extension of Time in which to file a response to the Removing Defendants’ Motion to Dismiss. Plaintiff wants until August 10, 2014 to file his response to the Removing Defendants’ Motion to Dismiss. As the Court has not set a response

¹ The Court in Walker explained:

Section 1915 provides that, in order for a court to grant *in forma pauperis* status, the litigant seeking such status must establish that he is unable to pay the costs of his suit. We believe that, in order to qualify for partial *in forma pauperis* status, a litigant must similarly show that he is unable to pay the particular cost at issue. In determining the availability of partial *in forma pauperis*, a litigant’s ability to pay must be assessed in light of the magnitude of the proposed expenditure.

Walker, 886 F.2d at 601.

deadline yet, Plaintiff's Motion is premature. Nevertheless, the Court grants Plaintiff's Motion insofar as Plaintiff is ordered to file his response to the Motion to Dismiss no later than August 18, 2014.

In accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rule 72.C.2 of the Local Rules of Court, the parties are allowed fourteen (14) days from the date of this Order to file an appeal to the District Judge which includes the basis for objection to this Order. Failure to file a timely appeal will constitute a waiver of any appellate rights.

July 30, 2014

s/Maureen P. Kelly

MAUREEN P. KELLY

UNITED STATES MAGISTRATE JUDGE

cc: The Honorable David S. Cercone
United States District Judge

Shawn Thomas Moore
Lawrence County Jail
111 South Milton Street
New Castle, PA 16101